

IN RE: PETITION FOR VARIANCE
N/S Fusting Avenue, 120' SW of
Intersection w/Ingleside Ave.
(2 Fusting Avenue)
1st Election District
1st Councilmanic District
John F. Laumann and
Dennis C. Laumann - Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-454-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, John F. Laumann and Dennis C. Laumann. The Petitioners request relief from Sections 1802.3.C.1 and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing open projection (deck with attached steps) with a rear yard setback of 9 feet in lieu of the minimum required 22.5 feet, as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petition was John F. Laumann and his brother, Dennis C. Laumann. There were no Protestants.

Testimony indicated that the subject property, known as 2 Fusting Avenue, consists of 0.070 acres, more or less, zoned D.R. 5.5 and is improved with a two-story dwelling and attached deck. Said deck is located on the rear side of the dwelling at the second floor level with steps leading down to the ground. The instant Petition was filed as a result of a zoning violation notice the Petitioners received for the deck and external stairs which were constructed without benefit of a building permit. Testimony indicated that the Petitioners inherited the subject property from their father in approximately 1991 and that they reside in the home together. John and his wife, Mable, reside on the first floor and Dennis resides on the second floor. Testimony indicated that since they inherit-

ed the property, several improvements have been made to the site, including the subject deck. The external steps were added so that Dennis could access the second floor as he finds the interior steps to be narrow and difficult to maneuver. Further testimony revealed that an inspection of the property confirmed that the second floor is not a separate apartment with kitchen facilities. The Petitioners testified that their neighbors have no objections to the rear external steps, as evidenced by letter dated May 21, 1993 from Cornelia J. Riston, who resides at 4 Howard Avenue, whose property adjoins the rear yard of the subject site on the west (affected) side. Testimony indicated that the relief requested would not result in any detriment to the health, safety or general welfare of the surrounding community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

- 2 -

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of July, 1993 that the Petition for Variance requesting relief from Sections 1802.3.C.1 and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing open projection (deck with attached steps) with a rear yard setback of 9 feet in lieu of the minimum required 22.5 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return,

ORDER RECEIVED FOR FILING
Date 7/28/93
By [Signature]

- 3 -

- and be responsible for returning, said property to its original condition.
- 2) The Petitioners shall not allow or cause the second floor to be converted to a second dwelling unit and/or apartments. There shall be no kitchen facilities added to the second floor.
 - 3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order in the event it becomes necessary to do so as a result of a complaint.

[Signature]
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 7/28/93
By [Signature]

- 4 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

July 28, 1993

(410) 887-4386

Mr. John F. Laumann
Mr. Dennis C. Laumann
2 Fusting Avenue
Catonsville, Maryland 21228

RE: PETITION FOR VARIANCE
N/S Fusting Avenue, 120' SW of its intersection with Ingleside Avenue
(2 Fusting Avenue)
1st Election District - 1st Councilmanic District
John F. Laumann and Dennis C. Laumann - Petitioners
Case No. 93-454-A

Dear Messrs. Laumann:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

[Signature]
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

File



Petition for Variance

93-454-A
to the Zoning Commissioner of Baltimore County

for the property located at 2 FUSTING AVENUE
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.C.1 and 301.1.A To allow an open projection, a rear setback of 9' in lieu of the required 22.5'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)
To be discussed at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Correct Purchaser/Lessor:

(Type or Print Name)

Signature

Address

City State Zipcode

(Type or Print Name)

Signature

Address

City State Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s):

JOHN FRANCIS LAUMANN

DENNIS CLARK LAUMANN

[Signature]

2 FUSTING AVE THW-RTS

CATONSVILLE, MD 21228

City Address and phone number if representative to be contacted.

Name

Address

City State Zipcode

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

See following date

ALL OTHER

REVIEWED BY: DATE

461

NO TITLE EXAMINATION
NO CONSIDERATION

LIBER 8-677 PAGE 317

THIS DEED, Made this 10th day of October, in the year nineteen hundred and ninety, by and between JOHN A. LAUMANN, of Baltimore County, State of Maryland, party of the first part, and JOHN FRANCIS LAUMANN and DENNIS CLARK LAUMANN, parties of the second part.

WITNESSETH, that in consideration of No Dollars (\$-0-), the said John A. Laumann does grant and convey unto the said John Francis Laumann and Dennis Clark Laumann, as tenants in common, their personal representatives and assigns, the hereinafter described property; RESERVING, however, unto the said John A. Laumann a life estate for and during the term of his natural life with full power in the said John A. Laumann to sell, assign, convey, lease, mortgage, or otherwise dispose of or encumber the hereinafter described property except by Last Will and Testament and on his death without having exercised the enumerated powers, the said fee simple estate, if any, shall pass to John Francis Laumann and Dennis Clark Laumann, as tenants in common, their personal representatives and assigns, all that lot or parcel of ground, situate in Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING on the North side of Fusting Avenue, No. 2, at a distance of one hundred and twenty feet South eighty and one-half degrees West from the North-west corner of Ingleside Avenue and Fusting Avenue, No. 2; thence running South eighty and one-half degrees West fifty feet and six inches; thence running North twelve degrees and five minutes West sixty feet; thence running North eighty and one-half degrees East fifty feet and six inches; and thence running South twelve degrees and five inches East sixty feet, to the place of beginning.

BEING the same lot of ground which by Deed dated May 7, 1936 and recorded among the Land Records of Baltimore County in Liber C.W.B., Jr. No. 975, folio 59, was granted and conveyed by Edgar M. Taylor and Mary L. Taylor, his wife, to John A. Laumann and Genevieve E. Laumann, his wife. The said Genevieve E. Laumann having departed this life on or about the 11th day of May, 1979, thereby vesting absolute title in John A. Laumann.

TOGETHER with the buildings thereupon and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described parcel of land and premises unto the said John Francis Laumann and Dennis Clark Laumann, as tenants in common, their personal representatives and assigns; subject, however, to the life estate and full powers hereinbefore reserved unto the said John A. Laumann, in fee simple.

AND, the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby granted; and that he will execute such further assurances

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
Signature [Signature] Date 7/28/93
TRANSFERRANCE REQUIRED
Pay [Signature] Sec 11-85 H

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 1st Date of Posting 8/3/93
Posted for Variance
Petitioner John & Dennis Laumann
Location of property 2 Fusting Ave. 120' SW Ingleside Ave
Location of Sign Front driveway on property to be removed
Remarks [Signature]
Posted by [Signature] Date of return 7/2/93
Number of Signs 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. July 1, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on July 1, 1993.

THE JEFFERSONIAN,

[Signature]

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 18 June ACCOUNT: R-001-6150
AMOUNT: \$ 851.00
RECEIVED FROM: Laumann
FOR: Res Variances
01AUG1993 11:18 AM
CA 111-303812-21228
VALIDATION OR SIGNATURE OF CLERK

93-454-A

111 West Chesapeake Avenue
Towson, MD 21204
JUNE 25, 1993

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-454-A (Item 461)
2 Fusting Avenue
N/S Fusting Avenue, 120' SW from NWC Ingleside Avenue
1st Election District - 1st Councilmanic
Petitioner(s): John Francis Laumann and Dennis Clark Laumann
HEARING: WEDNESDAY, JULY 21, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse.

Variance to allow an open projection, a rear setback of 9 feet in lieu of the required 22.5 feet.

Carl Jablon
Arnold Jablon
Director

cc: John and Dennis Laumann/2 Fusting Avenue/Catonsville MD 21228

NOTES: (1) HEARING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed on Recycled Paper

TO: PUTNEY PUBLISHING COMPANY
JULY 1, 1993 Issue - Jeffersonian

Please forward billing to:

John and Dennis Laumann
2 Fusting Avenue
Catonsville, Maryland 21228
(410) 744-8935

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-454-A (Item 461)
2 Fusting Avenue
N/S Fusting Avenue, 120' SW from NWC Ingleside Avenue
1st Election District - 1st Councilmanic
Petitioner(s): John Francis Laumann and Dennis Clark Laumann
HEARING: WEDNESDAY, JULY 21, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse.

Variance to allow an open projection, a rear setback of 9 feet in lieu of the required 22.5 feet.

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

111 West Chesapeake Avenue
Towson, MD 21204

July 14, 1993

Mr. and Mrs. John Francis Laumann
2 Fusting Avenue
Catonsville MD 21228

RE: Case No. 93-454-A, Item No. 461
Petitioner: John Francis Laumann, et ux
Petition for Variance.

Dear Mr. and Mrs. Laumann:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on June 18, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.



O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Re: Baltimore County
Item No.: 461 (CAM)

Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-3350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for: John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-422-5882 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: June 28, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 420, 435, 441, 443, 444, 445, 446, 447, 448, 457, 458, 459 and 461.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey W. Long*
Division Chief: *Carol L. Kern*

PK/JL:lw

435.ZAC/ZAC1

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Zoning Advisory Committee

DATE: June 28, 1993

FROM: Captain Jerry Pfeifer

SUBJECT: July 06, 1993 Meeting

#450 No Comments

#451 No Comments

#452 No Comments

#453 No Comments

#454 No Comments

#455 No Comments

#457 No Comments

#458 No Comments

#459 Building shall be in compliance with 1991 Life Safety Code

#460 No Comments

#461 No Comments 93-454-A 7/21



RECEIVED
JUL 28 1993
ZADM

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER
N/S Fusting Ave., 120' SW from : OF BALTIMORE COUNTY
NWC Ingleside Ave. (2 Fusting :
Ave.), 1st Election District, : Case No. 93-454-A
1st Councilmanic District

JOHN FRANCIS LAUMANN AND :
DENNIS CLARK LAUMANN, :
Petitioners :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Carole S. Demilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188


I HEREBY CERTIFY that on this 13th day of July, 1993, a copy of the foregoing Entry of Appearance was mailed to John Francis Laumann and Dennis Clark Laumann, 2 Fusting Ave., Catonsville, MD 21228, Petitioners.

Peter Max Zimmerman
Peter Max Zimmerman

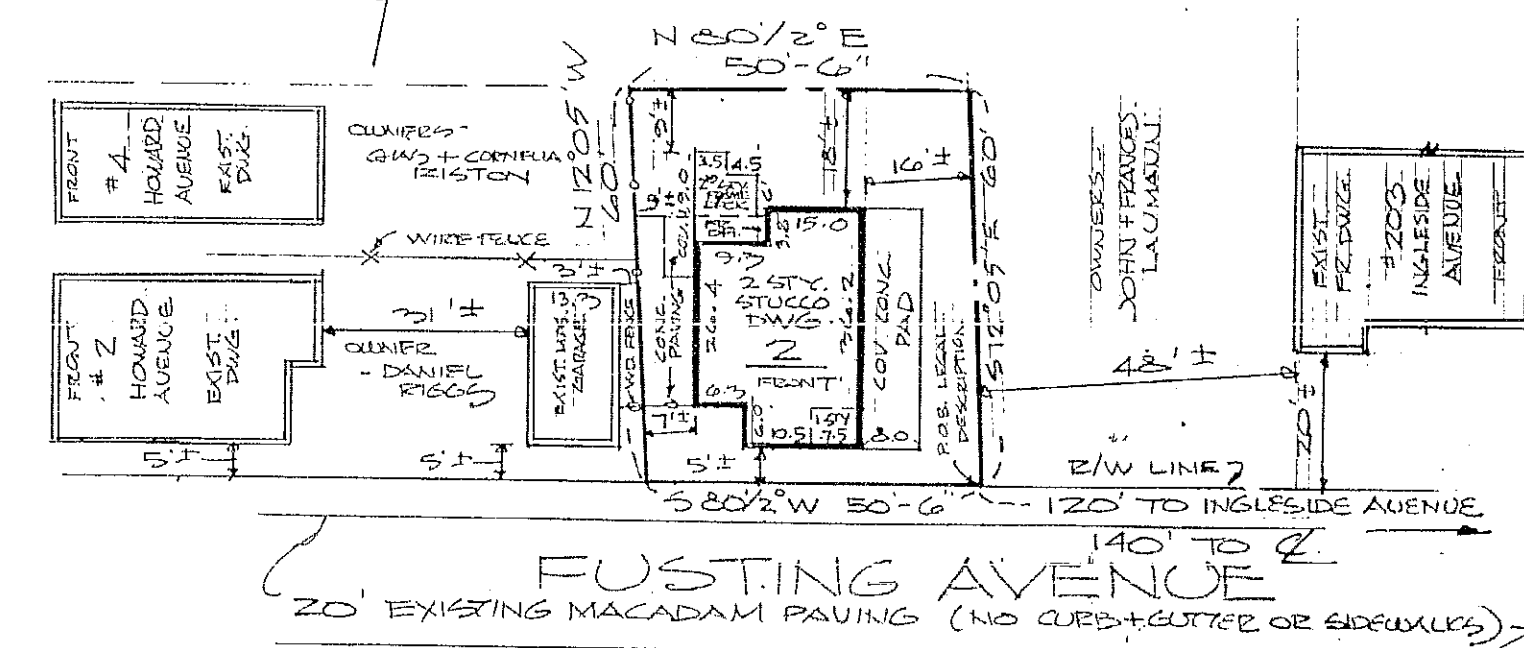
RECEIVED
JUL 13 1993
ZADM

Respectfully,
Cornelia J. Riston
Cornelia J. Riston
4 Howard Avenue
Catonsville, Maryland 21228

ADDRESS
2 FUSTING AVE BALTO 21228
203 INGLETSIDE AVE 21228

 Printed with Soybean Ink
on Recycled Paper

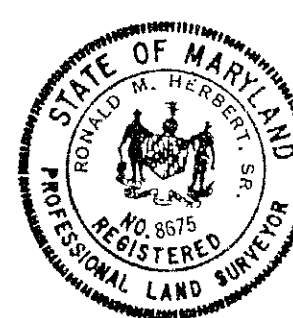
93-454-A



PETITIONER'S
EXHIBIT 1

I hereby certify that I have made a survey of this lot for the purpose of locating the improvements thereon and that they are located as shown.

This plat is not to be used for the establishment of property lines.



LOCATION SURVEY
2 FUSTING AVENUE, BALTIMORE COUNTY, MARYLAND

OFFICE OF
MANK & KUNST
408 YORK ROAD
TOWSON, MARYLAND 21204

SCALE	1"=30'
DATE	6/16/93
JOB NO.	1602 93 K

46

